

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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XIOMARA L. ORELLANA,

Plaintiff,

-against-

FARMINGDALE SCHOOL DISTRICT,

Defendant.  
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**AZRACK, United States District Judge:**

For Online Publication Only

**ORDER**

20-CV-6050 (JMA) (ST)

On December 11, 2020, Plaintiff Xiomara L. Orellana (“Plaintiff”) commenced this action against Defendant Farmingdale School District (“District”) alleging claims for discrimination and retaliation under the Americans with Disabilities Act of 1990 (“ADA”). (ECF No. 1.) On August 6, 2021, Defendant filed a motion to dismiss for failure to state a cause of action. (ECF No. 11.) October 22, 2021, I referred defendant’s motion to Magistrate Judge Steven Tiscione for a Report and Recommendation (“R&R”). (Electronic Order, October 22, 2021). On March 4, 2022, Judge Tiscione issued an R&R recommending that the Defendant’s motion be granted. (ECF No. 15.)

In reviewing a magistrate judge’s report and recommendation, the court must “make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made.” 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05–CV–5579, 2006 WL 3851152, at \*2 (S.D.N.Y. Dec. 29, 2006). The court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Those portions of a report and recommendation to which there is no specific reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

To date, no objections have been filed to the R&R and the deadline for filing any such objections has passed. Instead, Plaintiff has filed a motion to amend the complaint in lieu of filing objections, which is pending.

I have reviewed Judge Tiscione's R&R for clear error, and finding none, I adopt the R&R in its entirety as the opinion of this Court. Accordingly, Defendant's motion to dismiss is **GRANTED**. The Clerk of the Court is directed to keep this case open pending a decision on Plaintiff's motion to amend.

**SO ORDERED.**

Dated: March 30, 2022  
Central Islip, New York

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/s/ (JMA)  
JOAN M. AZRACK  
UNITED STATES DISTRICT JUDGE